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### REMARKS

Applicants have reviewed and considered the non-final Office Action mailed on September 21, 2006. Claims 61-65 are currently pending.

Applicants respectfully request reconsideration and allowance of all claims in view of the following remarks.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response.

#### Claims 61-65 are patentable over McKenna in view of Vogel under §103

Claims 61-65 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,816,904 to McKenna et al. ("McKenna") in view of U.S. Patent No. 4,930,160 to Vogel (hereinafter "Vogel"). The rejection is traversed.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. The McKenna and Vogel references alone or in combination fail to teach or suggest Applicants' invention as a whole.

McKenna fails to disclose the claimed group assignment rules processor engine that allows a viewer to review and modify or override the group assignment rules. The Examiner concedes this in the Office Action. (See p. 3, ll. 10-13) However, the Examiner alleges that Vogel bridges the substantial gap left between McKenna and the Applicants' invention.

Vogel fails to bridge the substantial gap between McKenna and Applicants' invention because Vogel also fails to teach or to suggest the claimed group assignment rules processor engine that allows a viewer to review and modify or override the group assignment rules. Vogel teaches an automatic censorship of video programs. A user

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may disable the display of programs of various classifications. (See Vogel, col. 5, ll. 1-34) If the user later decides to watch one of the programs in the disabled classification, a user may press an OVERRIDE key to watch the program. (See *Id.* at ll. 34-43)

The Applicants respectfully submit that overriding a user defined disabled program category is not the same as modifying or overriding any of the group assignment rules, as positively claimed by the Applicants' invention. For example, the group assignment rules of the Applicants' invention associates the viewer with other viewers. In contrast, the censorship rules taught by Vogel only associate programs with other programs.

Moreover, Vogel and McKenna cannot be meaningfully combined. Vogel requires the user to define what groups of programs they wish to censor and then provides an option to override the censoring without having to re-define what groups of programs they wish to censor. (See Vogel, col. 5, ll. 1-43) However, a viewer in McKenna does not know what demographic group they have been assigned to. Therefore, the program censoring method of Vogel cannot be meaningfully combined with McKenna because a viewer in McKenna's invention will not know what group they are in. Thus, a viewer will be unable to define what to censor, as required by Vogel. Consequently, without defining what to censor, the override option will not be available, as taught by Vogel.

Furthermore, as discussed in the Applicants' response to the Office Action dated April 19, 2006, the Applicants' described how McKenna teaches that the data collection unit itself controls the tuning of the cable converter. (See McKenna, col. 9, ll. 28-43; col. 10, ll. 38-50) Therefore, Vogel teaches away from McKenna because McKenna teaches the viewer does not have control of the tuning of the cable converter, where Vogel teaches that the user has control by defining what programs to censor and what programs to watch.

As such, McKenna and Vogel alone or in combination fail to teach or suggest Applicants' invention as claimed in at least claim 61. Accordingly, claim 61 is patentable under 35 U.S.C. §103 over McKenna and Vogel. Claims 62, 63, and 65 depend, directly or indirectly, from claim 61 and, thus, inherit the patentable subject matter of

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claim 61, while adding additional elements and further defining elements. Therefore, claims 62, 63, and 65 are also patentable over McKenna and Vogel under §103 for at least the reasons given above with respect to claim 61.

Claim 64 recites, *inter alia*, "managing the group assignment rules by allowing a viewer to review the group assignment rules and by processing any input from the viewer to modify or override any of the group assignment rules." For the same reasons given above with respect to claim 61, claim 64 is also patentable over McKenna and Vogel under §103.

Therefore, the Examiner's rejection of claims 61-65 should be withdrawn.

#### CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and allowance of the claims. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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